

### § 3.1

### 21 CFR Ch. I (4–1–13 Edition)

AUTHORITY: 21 U.S.C. 321, 351, 353, 355, 360, 360c–360f, 360h–360j, 360gg–360ss, 360bbb–2, 371(a), 379e, 381, 394; 42 U.S.C. 216, 262, 264.

SOURCE: 56 FR 58756, Nov. 21, 1991, unless otherwise noted.

#### Subpart A—Assignment of Agency Component for Review of Premarket Applications

##### § 3.1 Purpose.

This regulation relates to agency management and organization and has two purposes. The first is to implement section 503(g) of the act, as added by section 16 of the Safe Medical Devices Act of 1990 (Public Law 101–629) and amended by section 204 of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250), by specifying how FDA will determine the organizational component within FDA designated to have primary jurisdiction for the premarket review and regulation of products that are comprised of any combination of a drug and a device; a device and a biological; a biological and a drug; or a drug, a device and a biological. This determination will eliminate, in most cases, the need to receive approvals from more than one FDA component for such combination products. The second purpose of this regulation is to enhance the efficiency of agency management and operations by providing procedures for determining which agency component will have primary jurisdiction for any drug, device, or biological product where such jurisdiction is unclear or in dispute. Nothing in this section prevents FDA from using any agency resources it deems necessary to ensure adequate review of the safety and effectiveness of any product, or the substantial equivalence of any device to a predicate device.

[56 FR 58756, Nov. 21, 1991, as amended by 68 FR 37077, June 23, 2003]

##### § 3.2 Definitions.

For the purpose of this part:

(a) *Act* means the Federal Food, Drug, and Cosmetic Act.

(b) *Agency component* means the Center for Biologics Evaluation and Research, the Center for Devices and Radiological Health, the Center for Drug

Evaluation and Research, or alternative organizational component of the agency.

(c) *Applicant* means any person who submits or plans to submit an application to the Food and Drug Administration for premarket review. For purposes of this section, the terms “sponsor” and “applicant” have the same meaning.

(d) *Biological product* has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

(e) *Combination product* includes:

(1) A product comprised of two or more regulated components, i.e., drug/device, biologic/device, drug/biologic, or drug/device/biologic, that are physically, chemically, or otherwise combined or mixed and produced as a single entity;

(2) Two or more separate products packaged together in a single package or as a unit and comprised of drug and device products, device and biological products, or biological and drug products;

(3) A drug, device, or biological product packaged separately that according to its investigational plan or proposed labeling is intended for use only with an approved individually specified drug, device, or biological product where both are required to achieve the intended use, indication, or effect and where upon approval of the proposed product the labeling of the approved product would need to be changed, e.g., to reflect a change in intended use, dosage form, strength, route of administration, or significant change in dose; or

(4) Any investigational drug, device, or biological product packaged separately that according to its proposed labeling is for use only with another individually specified investigational drug, device, or biological product where both are required to achieve the intended use, indication, or effect.

(f) *Device* has the meaning given the term in section 201(h) of the act.

(g) *Drug* has the meaning given the term in section 201(g)(1) of the act.

(h) *FDA* means Food and Drug Administration.

(i) *Letter of designation* means the written notice issued by the product